Donnelly Manufacturing Co., Division of Brockhouse Corp. *and* United Electrical, Radio & Machine Workers of America (UE). Cases 1-CA-17951 and 1-RC-16980

December 28, 1982

DECISION, ORDER, AND DIRECTION OF SECOND ELECTION

BY MEMBERS JENKINS, ZIMMERMAN, AND HUNTER

On September 21, 1981, Administrative Law Judge Harold Bernard, Jr., issued the attached Decision in this proceeding. Thereafter, the General Counsel and Respondent filed exceptions and supporting briefs.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings,[1] and conclusions of the Administrative Law Judge and to adopt his recommended Order.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the Respondent, Donnelly Manufacturing Co., Division of Brockhouse Corp., Exeter, New Hampshire, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order, except that the attached notice is substituted for that of the Administrative Law Judge.

IT IS FURTHER ORDERED that Objection 6 and any allegations in the complaint as to which no violations have been found be, and they hereby are, dismissed.

IT IS FURTHER ORDERED that Case 1-RC-16980 be, and the same hereby is, severed from Case 1-CA-17951 and remanded to the Regional Director for Region 1 for the purpose of conducting a new election.

[Direction of Second Election[2] omitted from publication.]

MEMBER HUNTER, dissenting in part:

The Administrative Law Judge found, and my colleagues agree, that Respondent violated Section 8(a)(1) of the Act by interrogating employee Marshall. For the reasons set forth below, I would dismiss this allegation of the complaint.

Approximately 1 week prior to the election, Respondent's supervisor, Welch, while giving routine instructions to Marshall at her work station, question Marshall concerning her sentiments regarding the Union's organizing campaign and asked her "what was going on with the Union." Marshall was an avowed supporter of the Union and was wearing a union T-shirt at the time of her conversation with Welch. Relying on *PPG Industries, Inc., Lexington Plant, Fiber Glass Division*, 251 NLRB 1146 (1980), the Administrative Law Judge, without examining the nature of, or the circumstances surrounding, the questioning concluded that Welch unlawfully interrogated Marshall.

In view of the facts here, I cannot adopt the Administrative Law Judge's finding of such a violation. Nor do I agree with the precedent on which his conclusion is based. Thus, Marshall was an open and known union adherent, Welch's questioning was unaccompanied by any threat of reprisal or promise of benefit, and it is not alleged that Marshall was otherwise subjected to unlawful conduct specifically directed at her. Considering the totality of the circumstances here, I am compelled to conclude that the questioning of Marshall was noncoercive and, therefore, not violative of Section 8(a)(1). Furthermore, I cannot, subscribe to *PPG Industries* to the extent that it holds that employer

[1] Respondent has excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an administrative law judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. *Standard Dry Wall Products, Inc.*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing his findings.

We find totally without merit Respondent's allegations of bias and prejudice on the part of the Administrative Law Judge. Upon our full consideration of the record, we perceive no evidence that the Administrative Law Judge prejudged the case, made prejudicial rulings, failed to take into account or consider contradictory evidence or evidence with conflicting inferences which were or could have been in Respondent's favor, or demonstrated bias against Respondent in his analysis and discussion of the evidence.

Contrary to our dissenting colleague, we agree with the Administrative Law Judge's finding that Respondent violated Sec. 8(a)(1) of the Act by its interrogation of employee Marshall, even though she was an avowed union supporter. We note that the protection of the Act, to engage in concerted activities free from coercion, interference, or restraint, is no less for an avowed union supporter than it is for a secret or less obvious supporter. In addition, a threat of reprisal or promise of benefit is not necessary for this protection to attach and for the interrogation in question to be unlawful. *PPG Industries, Inc., Lexington Plant, Fiber Glass Division*, 251 NLRB 1146 (1980). Further, looking at the "totality of the circumstances" as suggested by the dissent, we find that Marshall's supervisor asked questions regarding not only her own personal union sentiments, but also the sentiments of others. Based on credited testimony, he asked Marshall "if she thought they [the Union] would get in . . . ." This question seeks to elicit information regarding the strength of support of other employees for the Union and would reasonably lead employees to believe that their union activities had been placed under surveillance by Respondent. This in turn, tends to restrain and coerce employees in the exercise of their Sec. 7 rights. *Metropolitan Life Insurance Company*, 253 NLRB 626 (1981); *Centre Engineering, Inc.*, 255 NLRB 419, 420 (1980). Therefore, the principles stated by the Board in *PPG Industries, supra*, are fully cognizant of the realities of the workplace and of antiunion campaigns. Accordingly, we affirm *PPG Industries, supra*, and find that it is applicable to the facts in this case. See also *Brookwood Furniture, Division of U.S. Industries*, 258 NLRB 208 (1981); *Model A and Model T Motor Car Reproduction Corporation*, 259 NLRB 555 (1981).

[2] [*Excelsior* footnote omitted from publication.]

inquiries as to employees' union sentiments reasonably tend to coerce employees even when the inquiries are made to employees who have openly declared their adherence to a union and even in the absence of threats or promises. In my view, *PPG Industries*, by establishing a *per se* rule with respect to interrogations, represents an approach which ignores the realities of the workplace and constitutes a totally unwarranted extension of Board law.[3] Accordingly, I would overruled *PPG Industries* and similar cases. I, therefore, dissent from the finding that Respondent's interrogation of Marshall violated the Act.[4]

[3] In *PPG Industries*, the Board specifically overruled *Stumpf Motor Company, Inc.*, 208 NLRB 431 (1974), and *B. F. Goodrich Footwear Company*, 201 NLRB 353 (1973), in which the Board found lawful questioning similar to that involved in the present case.

[4] In view of the foregoing, I also do not rely on such conduct in joining my colleagues in setting aside the the election.

APPENDIX

NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

After a hearing at which all sides had an opportunity to present evidence and state their positions, the National Labor Relations Board found that we have violated the National Labor Relations Act, as amended, and has ordered us to post this notice.

The Act gives employees the following rights:

To engage in self-organization

To form, join, or assist any union

To bargain collectively through representatives of their own choice

To engage in activities together for the purpose of collective bargaining or other mutual aid or protection

To refrain from the exercise of any or all such activities.

WE WILL NOT threaten employees with a plant closure or loss of a paycheck or employment because of the advent of the Union.

WE WILL NOT interrogate any employee about the employee's feelings towards the Union's organizational efforts.

WE WILL NOT falsely accuse any employee of harassing or ridiculing or upsetting other employees by discussing their wage increases; and WE WILL NOT offer any such employee resignation or termination papers.

WE WILL NOT unconditionally and unlawfully prohibit discussion among employees about wages or wage increases on company time.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them in Section 7 of the Act.

The election held on October 1, 1980, by the National Labor Relations Board has been set aside and its results voided because of our conduct affecting the outcome of that election, as found by the Board, during the period preceding the holding of that election. In due time, another election will be held, and you will be notified of the date, time, and place.

All of our employees are free to join or not join, to be active or not to be active on behalf of, or to vote for or not to vote for United Electrical, Radio & Machine Workers of America (UE), or other labor organizations of their choice, as they see fit, without interference, restraint, or coercion from us.

DONNELLY MANUFACTURING CO., DIVISION OF BROCKHOUSE CORP.

DECISION

STATEMENT OF THE CASE

HAROLD BERNARD, JR., Administrative Law Judge: This consolidated representation and unfair labor practice case was heard before me on June 8 and 9, 1981, in Exeter, New Hampshire, on the issues framed by the complaint and objections to conduct affecting the representation election whether Respondent, *inter alia*, threatened employees with loss of pay and plant closing; unjustly accused employees of harassment against other employees for allegedly ridiculing employees' pay increases, and offered them termination papers; and interrogated employees concerning their sentiments towards the Union, thereby violating Section 8(a)(1) of the Act and also requiring the holding of a second election.

Upon the entire record,[1] including briefs filed by the General Counsel and Respondent and the demeanor of the witnesses, I make the following:

FINDINGS AND CONCLUSIONS

I. JURISDICTION

Respondent, Donnelly Manufacturing Co., Division of Brockhouse Corp., the latter, a Delaware corporation, operates a plant located in Exeter, New Hampshire, engaged in manufacturing sheet metal. Annually, Respondent ships products valued in excess of $50,000 directly to points outside New Hampshire, and I find, as admitted, that it is an employer engaged in commerce within the

[1] General Counsel's motion to correct the record, opposed by Respondent, is hereby denied as inconsequential to the import in the witness' testimony and the determination herein.

meaning of Section 2(6) and (7) of the Act. The Union, United Electrical, Radio & Machine Workers of America (UE), concededly is a labor organization within the meaning of Section 2(5) of the Act.

II. THE UNFAIR LABOR PRACTICES

A. *Background*

The Union filed a representation petition in 1-RC-16980 on July 25, 1980, the year of relevant circumstances herein, and an election was conducted on October 1, the results being reported as 37 favoring representation and 40 against (G.C. 1(h)). The Union filed timely objections to Respondent's conduct affecting the election on October 7.

B. *Respondent's Threat To Close*

Prior to the filing of the petition, Respondent's quality control manager, Joseph Young in the morning on June 4, was reading a union pamphlet at his desk in the presence of three quality control inspectors, employees Richard Trindall, Robert Hildebrand, and Ernie Russeau. The parties disagreed as to which of numerous such pamphlets circulated by the Union during its organizational drive Young was reading, but the latter recalls, credibly I find, that the union pamphlet had something to do with wage and benefit objectives. He testified, "It had something to do with a lot of demands for better wages, dental plans, better hospitalization plans, more vacation and more holidays." Young admitted during his testimony that without expressing any qualifying preconditions of any kind he stated, after reading the pamphlet, that, "Walter (Walter Jones, Respondent's president) couldn't stand for this. He'd have to close the place." Although Young testified that when he made this statement he was laughing and had in mind that the cost of such benefits would be too much for the Company to bear and still survive, it is clear that he did not express any economic basis for the remark, which on its face constitutes an unlawful threatened closing of the plant before union demands would be met.[2] Further, it is well established that the inherent coerciveness and, therefore, interference with the rights of employees to seek representation as guaranteed by Section 7 of the Act in such statement is in no way lessened or rendered innocent merely because the coercion is cloaked in a supervisor's jesting manner whether in the course of interrogation or threat-making. *Ethyl Corporation*, 231 NLRB 431, 434 (1977); *Quemetco, Inc., a subsidiary of RSR Corporation*, 223 NLRB 470 (1976); and *Laredo Coca Cola Bottling Company*, 241 NLRB 167 (1979). Accordingly, I find that by attributing such an intention to close the plant to Respondent's president, Joseph Young, an admitted supervisor and agent of Respondent thereby violated Section 8(a)(1) of the Act. *Kawasaki Motors Corporation, U.S.A.*, 257 NLRB 502; *Standard-Coosa-Thatcher, Carpet Yarn Division, Inc.*, 257 NLRB 304; and *Statler Industries, Inc. (Statler Tissue Company)*, 244 NLRB 144 (1979). Employee Trindall testified that he described Young's remarks threatening a plant closure to employees Robin Crowle, Deborah Mulrooney, and Laurie Bilodeau, an employee in the assembly department.

C. *Threatened Loss of Employment*

Bilodeau testified that a week before the election held on October 1, she and another assembly employee, Denise Brackett, were discussing in their work area the inadequacy of their wages in the presence of Robert Wespiser, assembly department foreman and an admitted supervisor for Respondent. Bilodeau had worn a union button since mid-June and was wearing her button on the occasion in question. Wespiser told Bilodeau she was not doing so bad; and Bilodeau said she was not doing so hot either. At this point, I credit the version of Bilodeau and Brackett over the several differing recollections offered by Wespiser that the latter then stated, "just think next week there may not be a paycheck." Bilodeau relayed Wespiser's remarks to other employees, Robin Crowle, Deborah Mulrooney, and Richard Trindall, and I find that the comment about employees not getting a paycheck the next week, when the election to determine whether or not employees desired union representation was scheduled, like the earlier threat to close rather than meet union demands, constituted a further threatened loss of employment tied to the possible advent of the Union in violation of Section 8(a)(1) of the Act. Like Young, Wespiser allegedly had in mind an equally innocent, although different consideration, a "lessening" in the work leading to a possible reduction in force but there was no objective evidence demonstrating that Respondent's operations had reached such a stage, and I credit Bilodeau that Wespiser made no response to her request for elaboration, thereby leaving the threat connected only to the circulated unlawful communication by Young of a possible plant shutdown. While such an inference is reasonable, i.e., that the remark in such context—where employees were already confronted with an unlawful threat to close—was tied to Young's earlier statement, even were this not to have occurred earlier, I would find the unexplained threatened possible loss of a paycheck on election week apart from the foregoing, in the further circumstances in this case discussed below, to constitute unlawful coercion of employees in the exercise of their Section 7 rights to seek representation and thereby violative of Section 8(a)(1) of the Act. In short, Wespiser's undisclosed mental processes, frame of reference, or motive, if you will, is irrelevant since his conduct, I find, reasonably tended to interfere with employees' rights under the Act. *Donald E. Hernly, Inc., supra*, fn. 2.

[2] It is germane to note that Young's failure to refer to any figures, or indeed to any predicate whatsoever for his conclusion left, for all that appears, merely "Union demands" (should the Union win the election) as the cause for a plant closing thereby tying the advent of the Union to employees' loss of employment. Respondent, in its brief, argues that Young's remarks constituted a mere prediction based on his assessment of the costs involved in meeting union demands and was therefore permissible. However, such a rationale would not apply where, as here, there was no economic-cost context expressed for the remark. In short, Young's motive for the statement later further circulated among employees and coercive on its face, is irrelevant *Donald E. Hernly, Inc.*, 240 NLRB 840, 841 (1979).

D. *Interrogation—the Supervisory Status of George Welch*

A week or so before the election, employee Jean Marshall, an avowed union supporter who was wearing a union T-shirt while working in her welding booth, was receiving instructions from George Welch on how to complete a welding task. During the time Welch was instructing Marshall, he asked her how she felt about what was going on in the shop. Marshall assumed that he was talking about the Union because, "that's what everybody else was talking about." Welch testified that he asked Marshall if she thought they, meaning the Union, "would get in" and did not later deny Marshall's testimony that he had asked her how she felt about what was going on; i.e., the Union organizing. Welch admitted he spoke to her about the "UE," also asking "if she thought they would get in"; telling her he knew how he would vote if he was going to do so.

Welch carried the title of leadman in the welding department, but his signature appears above the title "supervisor" on several warning slips issued to employees for various plant rules' infractions, including warnings dated in February, March, May, and June 1980 (G.C. Exhs. 2, 4, and 5). Welch himself testified that he was given authority on his own to issue warning slips by his supervisor, Mario DiFabio, who is in overall charge of welding, sanding, and spot welding. I do not credit DiFabio that Welch's name appears on the warnings only as a "witness" to the issuance of the warnings, given DiFabio's unconvincing manner in so testifying and Welch's role in overseeing employees. Thus, Welch "tells employees not working to get to work or get back to work"; keeps their time and attendance checked; orders them to do work over if he decides it was not properly done the first time, instructs them how to perform their work, and recommends to DiFabio those employees he believes will get work done faster and better when overtime assignments are necessary. Welch, who is paid $6.25 an hour—the average welder receiving $4.75—also testified that he has given DiFabio numerous suggestions in the 4 years he has held this position concerning warnings to employees and raises in their pay. He testified that DiFabio has followed those recommendations including both those concerning discipline and those concerning pay raises. Regarding attendance, the record also shows that Welch monitors employee tardiness and absenteeism—in addition to keeping a check or record on it—and inquires into repeated absences or latenesses. If he decides the employee has a good reason or the infraction occurs only once in a while, he does nothing; otherwise, he tells DiFabio, a course of action which Welch (and the record) indicates is "significant" to Respondent's handling of the matter, and the employee's discipline.

It is clear that Welch's assigning duties are in the main routine, but the record is also clear that he is looked upon as a supervisor by employees given his role in Respondent's warning system, in which he has authority to issue warnings, directs the work of employees in a manner requiring the use of his independent expertise and judgment in welding matters, supervises the attendance records and performance of employees in his department—some six or seven employees assigned there—and can effectively recommend discipline, wage increases, and overtime assignments. His authority to excuse tardiness if "just once in a while" or "for a good reason" adds, I find, further support for the conclusion that Welch is a supervisor within the meaning of the Act. *S. L. Industries, Inc., and Extruded Products, Corp.*, 252 NLRB 1058 (1980); *William O. Hayes, d/b/a Superior Casting Company*, 230 NLRB 1179 (1977); *The New Jersey Famous Amos Chocolate Chip Cookie Corporation*, 236 NLRB 1093 (1978); *Flexi-Van Service Center*, 228 NLRB 956 (1977); and *Don Pizzolato, Inc.*, 249 NLRB 953, 956 (1980). Accordingly, it is further concluded that by Welch's interrogating employee Marshall concerning her sentiments regarding the Union's organizing efforts, how she felt about the Union's organizing efforts, and what was going on with the Union, Respondent violated Section 8(a)(1) of the Act. *PPG Industries, Inc., Lexington Plant, Fiber Glass Division*, 251 NLRB 1146 (1980).

E. *The September 30 Incident*

On September 30, the day before the election, Bilodeau testified that she and Brackett were excited over the prospect of their expected wage increases. After learning she had received a 20-cent increase, Bilodeau testified she spoke to Brackett and employees Marge Runtkovitch, Robin Bell, and Louise Ross about what they had received. She testified that when Brackett, and the others, in turn, throughout that morning, replied how much they had received, she replied that is good; or, that is a good raise. Regarding employee Louise Ross, Bilodeau recalls that when Ross told her she had received 20 cents for a new total hourly rate of $3.95 she, Bilodeau, replied that is good but Ross stated disappointedly that they could have given her another nickel to make it $4 an hour. It is relevant to note that Bilodeau, whose testimony is corroborated by Brackett—a coemployee present during such conversation—further described how she and employees Runtkovitch and Bell discussed the wage increases in the restroom; during which time Bilodeau credibly testified that on learning from each employee what her wage increase was Bilodeau replied that is good—in the case of Bell saying in addition that Bell's 25-cent increase was good because she, Bilodeau received only 20 cents more an hour.

At 2 p.m., Bilodeau and Brackett were taken from their packing department duties into Supervisor Wespiser's office and *told* that they had caused trouble that day; that they had three girls very upset over their raises and had harassed them about the matter, leaving Louise Ross crying. Bilodeau asked who the other two employees were but received no reply; Wespiser only continuing to reprimand them for "harassing other people about their raises and laughing at them." When the two surprised employees and declared union supporters denied any such misconduct, Wespiser accused them of lying "because there are 3 girls you've got upset down here." Although Wespiser refused to identify two of the employees allegedly upset during the confrontation, he nevertheless proposed, seemingly without any discernible basis for so harsh an ultimatum towards the two employ-

ees, that if he got the three employees into his office and they supported his charges that in return the employees sign termination papers. Bilodeau refused the offer noting to him that it was the day before the election. Wespiser admittedly told the two employees he did not want them talking anymore in the shop on company time about money (the raises)—that it was none of their business; and further testified that Louise Ross was easily provoked to tears and easily upset. As the two left his office, Wespiser told Bilodeau "her days were numbered" but it is clear in this record that he was referring to the known fact that Bilodeau's friend was leaving Respondent's employment soon and based his comment on the reasonable surmise that Bilodeau would be leaving also. The record supports characterizing the comment as one in the same vein as if Wespiser had said in effect she was leaving soon anyway, why continue to cause any further problems, rather than as a threat of future discharge, and it is so found.

Wespiser's account is that only two employees, the easily upset Ross and employee Bell, referred to their wages, Ross claiming in a 15-minute talk with Wespiser, who went to see her after a report that she was crying, that she should have gotten more money because the "girls" did. It was only at the end of the conversation that Wespiser learned Bilodeau and Brackett had allegedly "stirred Ross up." As Wespiser left Ross, employee Bell allegedly asked him why she did not get as much money as Bilodeau and Brackett and Wespiser assured her that she did. Concededly, when Wespiser asked Bell what had brought the subject up, Bell replied merely that Bilodeau and Brackett had talked to her.

Thus, by Wespiser's own account, he was given no basis for charging Bilodeau and Brackett, declared union supporters, with harassing, ridiculing, or laughing at three employees and getting them upset. Moreover, while he told the two they had upset three employees, only Ross was upset, by his own account, and even as to her, there was merely Wespiser's hearsay account that she had been "stirred up" by Bilodeau and Brackett, which fails to support his serious, coercive charges against Bilodeau and Brackett, already emerging as wholly unsubstantiated.

Further, assuming Wespiser was concerned about "an employee crying at her machine," assumedly because of concern for safety and production, he knew Ross was easily upset from past instances and the question was why, if production was also a concern, did he take the valuable production time involved in, not only talking for 15 minutes with Ross but also Bell, and then talking to Bilodeau and Brackett—also during production time, for what turns out to be accusations without support even by his own version—which was not corroborated by the very employees involved who were not called to testify by Respondent. I find no basis whatsoever for not crediting Bilodeau and Brackett regarding their description of their normal conduct that day, on the eve of the election.

This leads to the conclusion that Wespiser, found to have threatened employees earlier with loss of a paycheck and employment in connection with the union drive, was not motivated by genuine concern over what turns out to be false accusations of disruptive behavior by Bilodeau and Brackett when he charged them with "harassing other employees about wage increases," asked them if they would resign, or sign termination papers, and told the two employees he did not want them talking anymore in the shop on company time about money (causing trouble) I find the only motive reasonably inferrable from the circumstances is that on the eve of the election (Bilodeau and Brackett are credited about the timing of this incident) Wespiser seized upon Ross' condition and Bell's comment as an excuse to badger and frighten with possible termination known and declared union adherents because of their support for the Union, and further because of their engaging in the protected concerted activities of talking about employee wage increases with other employees—activity which Wespiser, I find, also unlawfully prohibited by completely outlawing same during company time. By such intimidating and coercive conduct, I find Respondent further violated Section 8(a)(1) of the Act. *Heat Research Corporations*, 243 NLRB 206, 209 (1979); *Montgomery Ward & Co., Incorporated*, 156 NLRB 7 (1965); see also *Detroit Forming, Inc.*, 204 NLRB 205, 212–213 (1973).

Since the unfair labor practices found to have occurred herein involve, except for the unlawful threat of plant closure on June 4, the same conduct alleged in the objections to conduct affecting election (see G.C. Exh. 1(h)) consolidated for hearing in this proceeding, such objections *a fortiori* are found meritorious, and it shall be recommended that the election in Case 1-RC-16980 be set aside and that a new election be conducted.[3] *Rike's, a Division of Federated Department Stores, Inc.*, 241 NLRB 240, fn. 38 (1979).

CONCLUSIONS OF LAW

1. Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

3. Respondent, through Joseph Young, threatened employees with a plant closing because of the advent of the Union in violation of Section 8(a)(1) of the Act.

4. Respondent, through Robert Wespiser, threatened employees with loss of a paycheck and employment because of the advent of the Union in violation of Section 8(a)(1) of the Act.

5. Respondent, through its supervisor and agent George Welch, unlawfully interrogated an employee concerning her sentiments toward the Union thereby violating Section 8(a)(1) of the Act.

6. Respondent, through Robert Wespiser, falsely accused employees Bilodeau and Brackett of harassing other employees about their wage increases, asked them to resign, or sign termination papers, and prohibited their discussion of wages on company time because of their support for the Union and because they engaged in pro-

[3] No proof was submitted in support of Objection 6 which alleges that supervisors initiated conversations with employees in which they inquired as to the how they were going to vote and it will therefore be recommended that Objection 6 be dismissed.

tected concerted activities thereby violating Section 8(a)(1) of the Act.

7. Respondent did not threaten employee Bilodeau by telling her that her days were numbered.

8. Respondent's supervisors did not initiate discussions with employees wherein they inquired of employees how such employees intended to vote in the election.

9. Respondent's unfair labor practices noted above, except as described in paragraph 3, interfered with employees' free choice in the election conducted in Case 1-RC-16980 on October 1, 1980, and the election results therein are thereby rendered null and void.

10. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

Having found that Respondent has engaged in unfair labor practices in violation of Section 8(a)(1) of the Act and further that Respondent engaged in conduct affecting the election conducted in Case 1-RC-16980, I shall recommend that it be ordered to cease and desist therefrom and to take certain affirmative actions designed to effectuate the policies of the Act. In addition, it shall be recommended that results in the election in Case 1-RC-16980 be set aside and a new election be conducted.

Upon the foregoing findings of fact, conclusions of law, and the entire record, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended:

ORDER[4]

The Respondent, Donnelly Manufacturing Co., Division of Brockhouse Corp., Exeter, New Hampshire, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Interfering with, restraining, or coercing its employees in the exercise of the rights guaranteed them by Section 7 of the Act, in violation of Section 8(a)(1) of the Act by threatening employees with plant closure, loss of a paycheck, and employment; by falsely accusing any employees of harassing other employees about wage increases, offering such employees resignation or to sign termination papers; or by unconditionally prohibiting discussion concerning wages or wage increases, among employees on company time.

(b) Interrogating any employee concerning the employee's sentiments towards the union organizing efforts.

(c) In any like or related manner interfering with, restraining, or coercing its employees in the exercise of their rights guaranteed by Section 7 of the Act.

2. Take the following affirmative action, which is found necessary to effectuate the policies of the Act:

(a) Post at its Exeter, New Hampshire, plant, copies of the attached notice marked "Appendix."[5] Copies of the attached notice, on forms provided by the Regional Director for Region 1, after being duly signed by an authorized representative of Respondent, shall be posted by Respondent immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to ensure that said notices are not altered, defaced, or covered by any other material.

(b) Notify the Regional Director for Region 1, in writing, within 20 days from the date of this Order, what steps Respondent has taken to comply herewith.

IT IS FURTHER ORDERED that the election results in Case 1-RC-16980 be set aside and that a new election be conducted.

IT IS ALSO ORDERED that Objection 6 be, and it hereby is dismissed; and that any complaint allegations herein found not supported by record evidence be, and they hereby are, dismissed.

[4] In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

[5] In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."